the number of cases disposed of in any one such month was double or even treble the number of cases disposed of in any other month. This was done with a view to escape punishment. One evil effect was that the Magistrates developed a deplorable tendency to summarily dismiss or otherwise dispose of cases at the end of each quarter.

In the matter of delays in civil courts, the clerks were even more responsible than the presiding officers. The bench clerks and the execution clerks took presents from the parties who desired to prolong the pendency of cases either with a view to defeat creditors or to annoy them and thereby coerce them to abandon their just claims. The member made the following suggestions to remedy this state of affairs:—

(1) The clerks should be better remunerated.

(2) They must be seated in the rooms of the presiding officers under their very nose.

(3) Complaints lodged against them should be promptly attended to.

(4) They must be frequently transferred, no clerk being retained in the same court for more than one year. A general transfer should be ordered during the mid-summer vacation of each year.

Another way of reducing the delay was to increase the cost of adjournments. Statistics would show that applications for adjournments were less in the High Court than in the subordinate courts because, in the former, the stamp fee for each application was Rs. 2, while, in the other courts, it was only half a rupee. The member, therefore, suggested that the stamp fee for an application for adjournment in the subordinate courts be fixed at Re. 1. The member concluded by saying that if the Head of the Administration, with his unique equipment for the task, removed this evil of law's delays, his name would be fondly cherished.

DEWAN'S REPLY: You have put many of your proposals in a concrete form so that they may all be referred to the High Court and the opinion of the Judges obtained.

As regards your suggestion to increase the cost of applications for adjournment, I shall put it specifically to the High Court and get their opinion. You will remember that some of the members who preceded you suggested that the cost of making applications for adjournment should be reduced from three and a half fanams. However, I will put your suggestion specifically before the High Court.

In regard to the question of speedy disposal of cases, since you struck a personal note I will give you my personal opinion on the subject. Nothing could be done in the way of disposal of work without the earnest co-operation of the bar.

42. Insolvency Regulation.

MR. R. BHAGAVATIPERUMAL CHETTIYAR (*Member, Trading Classes, Kottar*) said that the number of insolvency petitions was steadily increasing since the passing of the Insolvency Regulation. Prior to the passing of that Regulation, creditors could without much difficulty recover their dues from their debtors. But the Regulation had really made such recovery difficult. It was a source of hardship to the traders in the State. Unlike traders elsewhere, traders in Travancore carried on business with small capital. They bought goods on credit from wholesale merchants on payment of high rates of interest and commissions. With the passing of the Insolvency Regulation, recovery of debts became difficult, with the result that wholesale merchants refused to sell goods on credit. Trade was consequently on the decline and prices of articles had gone up. He therefore pleaded that the Regulation should be repealed. But if the Government were not prepared to do so, he suggested that the defects in its provisions and working should be removed.

As regards the defects in the Regulation, the member first pointed out that it enabled a person to present fraudulent petitions. In view to defeat creditors, the debtors made false pro-notes without consideration, disposed of their property, without receiving consideration, in favour of friends and relatives and after a period of six months presented insolvency petitions. To

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prevent such fraudulent practices, the member suggested that before admitting an insolvency petition, the petitioner should be asked to file a list of documents executed by him during a period of three years prior to the date of the petition. The account books produced by the debtors should be carefully scrutinised through certified accountants in order to find out how debts were contracted or losses incurred necessitating the presentation of insolvency petitions. If frauds had been committed, they should be found out and power should be reserved with the Government for prosecuting the debtors for fraud. On no account should they be allowed to escape and take advantage of their own fraud.

As regards the officers working the Insolvency Regulation, the member said that generally official receivers were appointed from among vaki's and retired officers. On account of their professional or private work, such officers failed to do full justice to the receiver's duties. They could hardly find the time to dispose of the debtors' property coming into their hands to the best advantage, and distribute the value among the creditors without delay. Consequently, insolvency cases could not be brought to a close speedily. Many such cases were being constantly adjourned without sufficient cause. Some receivers looked to their interest alone without finding ways for recovering the amounts due to the creditors. The defects could be remedied if a full-time graduate in law be appointed as receiver for each court. If that be done, the receiver's commission could be credited to Government revenue. There was no doubt that many graduates in law would come forward to accept the place.

Assets coming into the hands of the official receivers were not being distributed as and when they were realised. The receivers waited till the whole assets of the debtor were realised. It was not proper or necessary. It should be ruled that no amount whatever should be kept in the hands of the receivers for more than seven days.

The Insolvency Regulation was passed in 1090; but the appointment of official receivers was sanctioned only in 1098. There was want of uniformity in the working of the Regulation in the several courts.

Official receivers were not keeping the amounts received for each case separately. They appropriated the sums received for one case for distribution among the creditors in another, thus causing a lot of confusion. Sometimes, even the permanent advance given by the Government was wrongly utilised in respect of some cases. Moneys recovered for each case should be kept separate for meeting initial expenditure. For realising the assets, the Government should insist on the deposit of a sufficient amount along with the insolvency petition.

In certain cases, the official receivers deducted the commission and travelling allowance due to them from the amounts realised. Payment of travelling allowance was not provided for in the Insolvency Regulation or the Rules. In view to put a stop to the practice, the member suggested that all assets, as and when they were realised, should be ordered to be deposited in court. The distribution of the amounts among the creditors and the payment of commission to the receivers should be made by the court.

The prosperity of a State depended upon its agriculture, industry and commerce. To develop the first two, there were two officers and two departments. It was necessary to appoint a Commercial Officer also to develop trade and commerce in the country. If a separate officer could not be appointed, the Director of Industries should be entrusted with the duties of the Commercial Officer.

The member finally advocated also the appointment of a commission to enquire into and report on the condition of trade in the country, the causes for its decline and ways and means for developing it.

DEWAN'S REPLY: Mr. Bhagavatiperumal Chettiyar, I am afraid you have not shown sufficient cause for the repeal of the Insolvency Regulation. You pointed out certain difficulties in regard to the presentation of insolvency petitions. You will find that clauses 3 and 4 of Section 6 of the Regulation provide ample safeguards against that.

As regards the inspection of accounts by qualified men, the High Court say that it is being done wherever necessary. Then you ask that the Government should

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reserve power to prosecute persons who file false petitions. No such reserve power is necessary as Sections 187 and 190 of the Travancore Penal Code provide for cases of that sort.

With regard to your request to appoint whole-time official receivers I have to say that there is not enough work for whole-time officers.

Next you want to appoint a Commercial Officer. I do not know why. We have the Director of Industries, the Director of Registration and we have officers who control trade and shipping and I do not see why you want an officer of that sort.

The member said the officer would be helpful in finding out the best markets for local products and putting local merchants in touch with importers in foreign countries.

DEWAN: I am afraid the conditions are not sufficiently advanced to warrant such an appointment.

You want a commission to report on the present condition of trade in the State. That too I am afraid is asking for something that is not quite feasible. The state and condition of trade is well known to the Government and if there is any information you want of any particular branch, if you will write to the Government, they will be pleased to supply you with all information available.

43. Defects in the working of the Insolvency Regulation.

MR. S. MAHALINGA MUDALIYAR (*Member, Municipal Council, Nagercoil*) represented that the Insolvency Regulation was a source of evil to the traders in the country. Prior to the passing of the Regulation, the traders had some credit in the eyes of merchants abroad and they considered that presentation of insolvency petition was a mean action. But since the passing of the Regulation, cases of insolvency were very common. Many people borrowed money from others, purchased property with the borrowed money, alienated it in favour of their wives and relations and presented petitions for being declared insolvent, on the false plea of having become bankrupt on account of losses in trade. Others defrauded some of their creditors by falsely preferring other creditors to whom they transferred their property. Under the existing rules, if a property be transferred to one creditor three months before presenting an insolvency petition, other creditors could not recover their dues by proceeding against that property. There were still some others who, with the deliberate intention of presenting insolvency petitions, alienated their property one year before such presentation. In view to check such fraudulent transfers, the period of three months referred to above within which alienations of the debtor's property should not take place, should be extended to one year or at least six months. That would be a great boon to the public in general and to traders in particular.

The work of the official receivers was not satisfactory. There was considerable delay in distributing the assets of debtors among the creditors. In cases of insolvency, the creditors got only a portion of the money originally given out on loan. If even that portion was not recoverable early, the creditors would be subject to sad disappointments. The official receivers did not realise the difficulties of the creditors. The persons holding such appointments attended to the official receivers' duties only when they had leisure and convenience, the main portion of their time being taken up by their own professional work. They should therefore be asked to distribute the assets coming into their hands as and when they were realised.

Lastly, the Insolvency Regulation was not necessary in a State like Travancore. It might be useful in great towns and busy ports where trade and speculative businesses were carried on an extensive scale. Trade in Travancore was only limited and a trader could not become bankrupt all on a sudden. If a trader in Travancore should become bankrupt, he must have alienated his property with the deliberate intention of defrauding his creditors. Such fraudulent transactions came into existence only after the passing of the Insolvency Regulation. That was the main reason why traders in this country had lost their credit and mutual trust. The member therefore unhesitatingly advocated the repeal of the Regulation, which, if carried out, would be an unmixed advantage to the public of Travancore in general and to the traders in particular.

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